



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDANPANI

Cr1.O.P.(MD)No.3686 of 2019

K.Somasundaram

... Petitioner/Accused No.1

Vs.

The State rep. by
The Superintendent of Police
CBI/ACB/Chennai
FIR No.RCMA12015A0034

...Respondent/Complainant

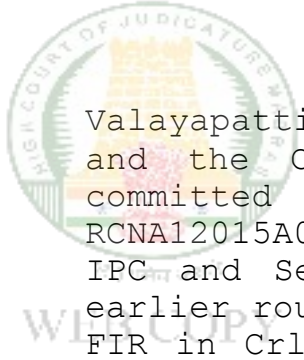
Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records from the lower court to quash all further proceedings in FIR No.RCMA12015A0034 pending on the file of the CBI/ACB/Chennai and quash the same concerning the petitioner.

For Petitioner : Mr.T.K.Gopalan
For Respondents : Mr.R.Sudev Kumar
Public Prosecutor for CBI Cases/

ORDER

This petition has been filed to quash the proceedings in FIR No.RCMA12015A0034 pending on the file of the CBI/ACB/Chennai

2.The case of the petitioner is that the petitioner is the Clerk in Indian Overseas Bank. Based on the reliable information during the period 2010-2012 the process of absorbing temporary Messengers/ Sweepers were carried out by Indian Overseas Bank on all India basis with a condition that those who are working temporary Messengers / Sweepers they must fulfill the eligibility criteria viz., qualification and experience. As far as absorption of Messenger, the qualification was fixed minimum 8th Standard and maximum 10+2 fail. For Sweeper, 5th Standard pass and 8th Standard fail, but for both post one should complete 240 days as on 15.11.2010. The information reveals that one Ganesan, Messenger, IOB in collusion with the one K.Somasundaram submitted forged and false educational certificate purported to have been issued by Head Master, Government Hr.Sec.School, T.Kallupatti, Madurai District to the bank to fulfill the eligibility criteria for his absorption as Messenger, for which the petitioner/ clerk had demanded and accepted illegal gratification of Rs.1,00,000/-from Ganesan for himself and for office bearers of the Union Subsequently the said Ganesan was absorbed as Messenger in IOB and posted at Indian Overseas Bank,



Valayapatti Branch on 17.08.2011. Based on the above information and the CBI *prima facie* discloses that the accused persons committed the offence and registered a case in Crime No. RCNA12015A0034 for offences under Sections 120(B), r/w. 420, 468, 471 IPC and Sections 7 & 13(2) r/w. 13(1)(d) PC Act 1988. Hence in the earlier round of litigation the petitioner challenged the very same FIR in CrI.OP (MD) 3312 of 2016 and this court by an order dated 25.01.2018 after elaborate discussion dismissed the petition, again the petitioner filed another quash petition.

3. The learned counsel appearing for the petitioner would submit that though in earlier occasion this Court dismissed the petition, however though the petition was dismissed on 25.01.2018, thereafter the investigating agency has prepared the charge sheet, however no charge sheet was filed till date before the competent court. Further submitted that the petitioner is the officer bearer of the association, the rival association gave a complaint to the CBI in order to implicate the petitioner for the above said offence. Subsequently department initiated departmental proceedings against the petitioner and the departmental proceedings also ended in his favour. In view of the change of circumstances the petitioner filed this petition to quash the proceedings.

4. The learned Special Public Prosecutor appearing for the CBI cases would submit that merely because of the departmental proceedings ended in his favour it does not amount to clean sheet to the petitioner, it appears investigation is almost completed and charge sheet is made ready and at any time they may file the charge sheet and no fresh materials are produced before this Court to reconsider the earlier decision taken by this Court in CrI.OP (MD) No. 3312 of 2016.

5. Considering the facts and circumstances of the case on bare perusal of the FIR discloses the cognizable offence against the petitioner and further in respect of quashing the First Information Report elaborately discussed by the Hon'ble apex Court in ***State of Haryana and others vs. Bhajan Lal and others [1992 Supp. (1) SCC 335]***, this case does not fall in the parameter laid by the Hon'ble apex court, and no fresh materials are produced before this court.

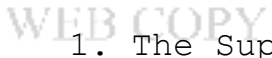
6. Hence this Criminal Original petition is dismissed.

Sd/-

Assistant Registrar (CS II)

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To: 

1. The Superintendent of Police
CBI/ACB/Chennai
2. The Special Public Prosecutor for CBI Cases
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.THANBIDURAI, Advocate (SR-53472[F] dated
13/03/2019)

Crl.O.P. (MD) No.3686 of 2019

12.03.2019

DS/ /SAR- (25.03.2019) 3P 4C